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12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 **DAVID J. LEE, an individual and, on**  
15 **behalf of others similarly situated,**

16 **Plaintiff,**

17 **vs.**

18 **CAPITAL ONE BANK and CAPITAL**  
19 **ONE SERVICES, INC., Virginia**  
20 **corporations, DOES 1 through 100,**  
21 **inclusive,**

22 **Defendants.**

) **Case No.: C-07-4599 - MHP**

)  
) **PLAINTIFF'S MEMORANDUM OF**  
) **POINTS & AUTHORITIES, FILED IN**  
) **SUPPORT PLAINTIFF'S**  
) **ADMINISTRATIVE MOTION FOR**  
) **ENLARGEMENT OF PAGE LIMITS FOR**  
) **BRIEFING OF PLAINTIFF'S**  
) **OPPOSITION TO DEFENDANTS'**  
) **MOTION TO DISMISS**

) **[ADMINISTRATIVE MOTION;**  
) **DECLARATION OF MATTHEW S.**  
) **HALE; AND PROPOSED ORDER, FILED**  
) **CONCURRENTLY]**

**I.**  
**Summary of Argument**

Pursuant to Local Rule 7-11, Plaintiff hereby respectfully submits the instant Administrative Motion (the “Motion”) for leave to exceed, by six (6) pages, the twenty-five (25) page limit specified for briefs in Local Rule 7-4(b). Based on good cause, Plaintiff seeks an Order granting Plaintiff leave to file his Opposition to Defendants’ Motion to Dismiss in excess of the page limits specified by the Local Rules.

Good cause exists for Plaintiff to file an Opposition in excess of Local Rule 7-4(b)’s page limit because the Defendants’ Motion to Dismiss involves numerous complex legal issues. In addition, the Plaintiff’s need to address the Court’s recent decision in Lee v. American Express Travel Related Services Company, Inc. Case No. CV-07-4765 (CRB) (N.D. Cal. Dec. 6, 2007), necessitates extra pages.

Plaintiff believes that the Court and the parties would be best served by allowing the Plaintiff to file his Opposition to the Defendants’ Motion to Dismiss in excess of the twenty-five (25) page limit, so that all the legal issues may be adequately addressed.

Prior to the filing of this Motion the Plaintiff sought out the consent of the Defendants’ counsel to exceed that page limit relative to the filing of his Opposition to the Defendants’ Motion to Dismiss. In response, Defense counsel advised the Plaintiff’s attorney, by e-mail, that the Defendants would not oppose the Plaintiff’s request for extra pages. (See Declaration of Matthew S. Hale, ¶¶ 4 & 5, Exhibits 1 & 2.)

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II.

**The Court has the Discretion to Enlarge the  
Number of Pages Permitted by the Local  
Rules Relative to the Size of a Party's Brief**

Local Rule 7-11 affords the District Court great leeway when a party seeks a routine order (e.g., to file an overlong brief or to shorten the time within which a motion may be brought). Even so, the application ought properly to be addressed to the *need* to exceed the page limit or for shortened time, rather than to the substance of the motion itself. (See In Re: Intermagnetics America, Inc. (CD CA 1989) 101 BR 191, 194)

III.

**Conclusion**

Based upon the foregoing facts and authorities, this Honorable Court is respectfully requested to grant the Plaintiff an additional six (6) pages to respond to the Defendants' Motion to Dismiss.

Dated: January 24, 2008

Respectfully submitted,

By: 

Matthew S. Hale, Esq.  
Counsel for Plaintiff,  
David J. Lee